

Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL).

September 11, 2000

Dear Manager:

It has been brought to our attention that COMPANY advertised on August 2, 2000 that no sales tax would be incurred on customer purchases made at its store locations (copy enclosed).

Please consider this letter as fair notice that this advertisement violates the provisions of Section 7 of the Use Tax Act (35 ILCS 105/7). Section 7 of the Use Tax Act states:

"It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by Section 3 hereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise's being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under the Retailers' Occupation Tax Act or under this Act. Any person violating any of the provisions of this Section within this State shall be guilty of a Class A misdemeanor." 35 ILCS 105/7 (1998 State Bar Edition).

As indicated therein, it is a class A misdemeanor for a retailer to advertise that he will pay the sales tax on a purchase. We have enclosed a copy of 86 Ill. Adm. Code 150.515 that reflects this statutory prohibition. We note that the advertisement does reference in small print that COMPANY will deduct the sales tax equivalent from the customers' purchases. However, the significantly larger type print stating "Pay No Sales Tax!" is misleading. While we do not want to interfere with your advertising techniques, under the circumstances, we are compelled to do so.

You should immediately cease advertising that you will pay the sales tax. Any future advertisements of this kind will be viewed as a continuing violation, which could result in criminal prosecution.

If you have questions related to this matter or other Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782- 3336. The Department also maintains a website, which can be accessed at www.revenue.state.il.us.

Very truly yours,

Terry D. Charlton
Associate Counsel

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